(7)

C.F. 200=-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

W.P. No. 1116 OF 2001

PETITIONERS

1. Executive Engineer, P.W.D. (Bridges),Jagdalpur, Chhattisgarh
2. Sub Divisional Officer, P.W.D. (Bridges), Kanker, Distt. Bastar, Chhattisgarh

P. R. No. 1113/01
Received by Shri Ramdas Singh
dated 30.6.2001

VERSUS

RESPONDENTS

1. Labour Inspector under Minimum Wages Act, Block Narharpur, Distt.Bastar at present Distt. Kanker, Chhattisgarh
2. Authority under Minimum Wages Act, Labour Court, Jagdalpur, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 1116 OF 2001

30

PETITIONERS : Executive Engineer, P.W.D. & Another

VERSUS

RESPONDENTS : Labour Inspector under Minimum Wages Act & Another

Writ Petition under Article 226/227 of the Constitution of India

SB: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri Arun Sao, Govt. Advocate for the State/petitioner.

None for the respondents, despite service of notice.

O R D E R (OPEN COURT)

(Passed on 12th March, 2013)

1. The order dated 09.12.2000 (Annexure P-1) as well as order dated 14.06.2001 (Annexure P-2), passed by the Authority under Minimum Wages Act, Labour Court, Jagdalpur *(for short the Authority)*, whereunder, the application of the petitioner/State for setting aside the order dated 09.12.2000 was rejected, are under challenge before this Court.

2. The petitioner is the State Government. The workers were employed for construction of approach road at Sirsida Bridge. On inspection made by the Labour Inspector on 28.02.1997, it was found that workers were paid lesser amount than what was notified by the State Government, as minimum wages under the provisions of Minimum Wages Act, 1948 *(for short "the Act, 1948").* Having considered the same, the Authority came to the conclusion that amount of Rs. 39,812.24 as difference of wages was payable to the workers and passed the order, accordingly.

3. Shri Sao, learned State counsel, submits that the order was passed *ex parte*, as is evident from the order sheet (Annexure P-3) that the petitioner's representative appears throughout except on one day i.e. on 07.12.2000. When he remained absent, the matter proceeded *ex parte* and order was passed. After the order dated 09.12.2000 was passed, an application was made by the State/petitioner to the Authority. The Authority having considered case of the petitioner as well as other side recorded the finding

that the petitioner's representative remained absent on 21.12.1999, 16.02.2000, 29.03.2000, 16.05.2000 and 17.07.2000. Thereafter, on 25.11.2000 it was adjourned to 07.12.2000. On 07.12.2000 also the representative remained absent and, as such, proceed *ex parte* was neither bad nor unjustified. Accordingly, the application of the petitioner was rejected.

4. Shri Sao, further submits that the workers were engaged by the contractor namely Sanjay Singh and, as such, they were not the workers employed by the petitioner/State. Thus, the petitioner/State is not under an obligation to make the payments. The contention of Shri Sao is fallacious, as if the workers perform their duties through contractor engaged by the petitioner, it was for the State i.e. the main employer to ensure that the workers are paid minimum wages and the contractor should not be allowed to continue the work without making payment of minimum wages. Thus, the decision of the authority is just and proper, warranting no interference.

5. So far as next contention of the petitioner with regard to payment of 10 times compensation under Section 20(3) of the Act, 1948 is concerned, under provisions of law, the Authority has competence to impose compensation at the rate 10 times of the difference of minimum wages and having regard to the amount involved, it cannot be held that the amount was excessive or it should not have been done because the employer is the department of the State Government.

6. This Court does not find any infirmity, illegality or irregularity in the impugned order passed by the Authority.

7. Accordingly, the writ petition is dismissed. No order asto costs.

Satish
JUDGE

ashok

Satish

that the petitioner's representative remained absent on 21.12.1999, 16.02.2000, 29.03.2000, 16.05.2000 and 17.07.2000. Thereafter, on 25.11.2000 it was adjourned to 07.12.2000. On 07.12.2000 also the representative remained absent and, as such, proceed *ex parte* was neither bad nor unjustified. Accordingly, the application of the petitioner was rejected.

4. Shri Sao, further submits that the workers were engaged by the contractor namely Sanjay Singh and, as such, they were not the workers employed by the petitioner/State. Thus, the petitioner/State is not under an obligation to make the payments. The contention of Shri Sao is fallacious, as if the workers perform their duties through contractor engaged by the petitioner, it was for the State i.e. the main employer to ensure that the workers are paid minimum wages and the contractor should not be allowed to continue the work without making payment of minimum wages. Thus, the decision of the authority is just and proper, warranting no interference.

5. So far as next contention of the petitioner with regard to payment of 10 times compensation under Section 20(3) of the Act, 1948 is concerned, under provisions of law, the Authority has competence to impose compensation at the rate 10 times of the difference of minimum wages and having regard to the amount involved, it cannot be held that the amount was excessive or it should not have been done because the employer is the department of the State Government.

6. This Court does not find any infirmity, illegality or irregularity in the impugned order passed by the Authority.

7. Accordingly, the writ petition is dismissed. No order asto costs.

Sd/-
Satish K. Agnihotri
Judge

ashok